

# Chapter 1

## BRIAN HEAD TOWN CODE

### 1-1-1: TITLE:

### 1-1-2: ACCEPTANCE:

### 1-1-3: AMENDMENTS:

### 1-1-4: ALTERATIONS:

### 1-1-5: ADOPTION OF STATE CONSTITUTION AND LAWS:

#### **1-1-1: TITLE:**

Upon the adoption by the Town Council, this code is hereby declared to be and shall hereafter constitute the official town code of Brian Head Town. This code of ordinances shall be known and cited as the *BRIAN HEAD TOWN CODE* and is hereby published by authority of the town council and shall be supplemented to incorporate the most recent legislation of the town as provided in section [1-1-3](#) of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents. (1984 Code § 10-1-1; amd. 2010 Code)

#### **1-1-2: ACCEPTANCE:**

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in section [1-2-1](#) of this title. (2010 Code)

#### **1-1-3: AMENDMENTS:**

- A. All amendments made to this code shall be by ordinance. Any ordinance amending the town code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the town code.

- B. No amendment shall be made by interlineation or by reference to a title, chapter or section only. All amendments shall be made by setting forth and reenacting each amended section in full as amended. (1984 Code ch. 3; amd. 2010 Code)

**1-1-4: ALTERATIONS:**

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the town council. The town clerk/recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the town clerk/recorder. Any person having custody of a copy of the town code shall make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the town clerk/recorder. Said code books, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the town clerk/recorder when directed so to do by order of the town council. (2010 Code)

**1-1-5: ADOPTION OF STATE CONSTITUTION AND LAWS:**

The provisions of the constitution of the state and all provisions of state law relating to towns are hereby adopted as if they were specifically ordained and fully set forth in this code. (1984 Code § 10-1-5)

## Chapter 2

### SAVING CLAUSE

#### 1-2-1: REPEAL OF GENERAL ORDINANCES:

#### 1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:

#### 1-2-3: COURT PROCEEDINGS:

#### 1-2-4: SEVERABILITY CLAUSE:

#### **1-2-1: REPEAL OF GENERAL ORDINANCES:**

- A. Repealer; Exceptions: Except as provided in Utah Code Annotated section [10-3-709](#), all general ordinances of the town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.
- B. Effect Of Repealing Ordinances: The repeal of the ordinances provided in subsection A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded. (1984 Code § 10-1-2; amd. 2010 Code)

#### **1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:**

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the town code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2010 Code)

### **1-2-3: COURT PROCEEDINGS:**

- A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- B. Scope Of Section: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. Actions Now Pending: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this code. (1984 Code § 10-1-3; amd. 2010 Code)

### **1-2-4: SEVERABILITY CLAUSE:**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (1984 Code §§ 1-3-1, 10-1-4; amd. 2010 Code)

# Chapter 3

## DEFINITIONS

### 1-3-1: CONSTRUCTION OF WORDS:

### 1-3-2: GENERAL DEFINITIONS:

### 1-3-3: CATCHLINES:

#### **1-3-1: CONSTRUCTION OF WORDS:**

- A. Liberal Construction: All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the Mayor and Town Council may be fully carried out.
- B. Interpretation: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- C. Additional Interpretations:
  - 1. Computation Of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time but the day on which such proceeding is to be held shall be counted.
  - 2. Delegation Of Authority: Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
  - 3. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
  - 4. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
  - 5. May/Shall: The word "may" is permissive; the word "shall" is mandatory.
  - 6. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and

such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

7. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
8. Officers Generally: Whenever any officer is referred by title, such as "clerk ", "treasurer", etc., such reference shall be construed as if followed by the words "of Brian Head Town".
9. Tense: Words used in the past or present tense include the future as well as the past and present. (2010 Code)

### **1-3-2: GENERAL DEFINITIONS:**

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

**AGENT:** A person acting on behalf of another with authority conferred, either expressly or by implication.

**CODE:** The town code of Brian Head Town, Utah.

**COMPUTATION OF TIME:** In computing any period of time prescribed or allowed by this code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. As used in this definition, "legal holiday" includes New Year's Day, President's Day, Martin Luther King, Jr. birthday, Memorial Day, Independence Day, July 24, Labor Day, Columbus Day, general election day, Veterans Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by the president or congress of the United States, or pursuant to Utah statutes. Time periods of five (5) days or less shall exclude intervening Saturdays, Sundays and holidays.

**COUNTY:** Iron County, state of Utah.

**FEE:** A sum of money charged by the town for the carrying on of a business, profession or occupation or other activity subject to town regulation, authorization or limitation.

**GOVERNING BODY:** The Town Council of Brian Head Town, Utah.

**HIGHWAY, ROAD:** Includes public bridges, and may be equivalent to the words "county way", "county road", "common road" and "state road".

**LICENSE:** The permission granted for the carrying on of a business, profession or occupation.

**LOCATION:** Whenever any act, conduct or offense is prohibited or required and no reference

is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of the town.

**NUISANCE:** Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the town, or any activity which by its perpetuation can reasonable be said to have a detrimental effect on the property of a person or persons within the community.

**OCCUPANT:** As applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

**OFFENSE:** Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

**OPERATOR:** The person who is in charge of any operation, business or profession.

**OWNER:** As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

**PERSON:** Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

**PERSONAL PROPERTY:** Includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

**PROPERTY:** Includes both real and personal property.

**REASONABLE TIME:** In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

**RETAILER:** Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

**RIGHT OF WAY:** The privilege of the immediate use of the roadway or other property.

**STATE:** The state of Utah.

**STREET:** Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

**TENANT:** As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

**TOWN:** Brian Head Town, Utah.

**TOWN COUNCIL:** The Town Council of Brian Head Town, Utah.

**WEEK:** Any seven (7) day period.

**WHOLESALE:** The terms "wholesaler" and "wholesale dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

**WRITTEN, IN WRITING:** May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark. (2010 Code)

### **1-3-3: CATCHLINES:**

The catchlines of the several sections of the town code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2010 Code)



# Chapter 4

## GENERAL PENALTY

### 1-4-1: SENTENCING:

### 1-4-2: OFFENSES DESIGNATED; CLASSIFIED:

#### **1-4-1: SENTENCING:**

##### A. Penalty For Violation Of Ordinance

1. Criminal: The Town Council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section [76-3-301](#) or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. Civil:

a. Except as provided in subsection A2b of this section, the Town Council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section [76-3-301](#).

b. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

##### B. Term Of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows under [UCA § 76-3-204](#):

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;

2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

##### C. Infractions ([UCA § 76-3-205](#)):

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

##### D. Fines Of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed: [UCA § 76-3-301](#):

1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor conviction; and
  2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.
- E. Fines Of Corporations: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the town, or for an offense defined outside of this code over which this town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding ([UCA § 76-3-302](#)):
1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and
  2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction. (2010 Code)

#### **1-4-2: OFFENSES DESIGNATED; CLASSIFIED:**

##### A. Sentencing In Accordance With Chapter:

1. A person adjudged guilty of an offense under this code or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.
2. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

##### B. Designation Of Offenses: Offenses are designated as misdemeanors or infractions.

##### C. Misdemeanors Classified ([UCA § 76-3-104](#)):

1. Misdemeanors are classified into two (2) categories:
  - a. Class B misdemeanors;
  - b. Class C misdemeanors.
2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this town when no other specification as to punishment or category is made is a class B misdemeanor.

##### D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this town which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur. (2010 Code)

## Chapter 5

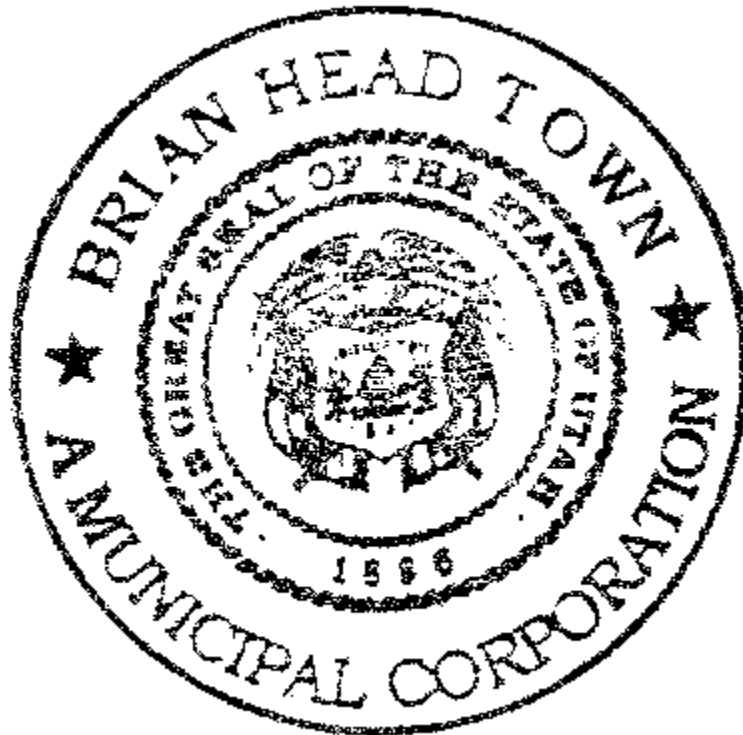
# OFFICIAL AND CORPORATE PROVISIONS

### SECTION:

#### 1-5-1: TOWN SEAL:

#### 1-5-1: TOWN SEAL:

The official seal of the town shall be kept in the office of the Town Clerk. The seal shall be circular in form and one and three-fourths inches ( $1\frac{3}{4}$ " ) in diameter, the impression on which is two (2) semicircles meeting at about the ten o'clock and two o'clock position with the words "Brian Head Town" forming the semicircle, and the words "A Municipal Corporation" forming the bottom semicircle. Within the semicircle are the words "Corporate" on top forming a semicircle, "Utah" on the bottom forming a semicircle, and the word "Seal", in bold type, in the center. The two (2) semicircles are separated by a series of dots. This seal is hereby established as the official seal of the town.



## Chapter 6

### FORM OF GOVERNMENT

#### 1-6-1: COUNCIL-MANAGER FORM OF GOVERNMENT:

#### 1-6-2: PREPARATION OF MUNICIPAL ADMINISTRATIVE CODE:

#### **1-6-1: COUNCIL-MANAGER FORM OF GOVERNMENT:**

Pursuant to Utah Code Annotated section 10-3b-103(6), the Town Council hereby adopts and establishes a council-manager form of government and further establishes the office of town manager. (Ord. 88-003, 4-12-1988; amd. 2010 Code)

#### **1-6-2: PREPARATION OF MUNICIPAL ADMINISTRATIVE CODE:**

It shall be the duty of the first manager appointed under the provisions of this chapter to draft and submit to the Town Council, within six (6) months after assuming office, a proposed ordinance providing for the division of the administrative service of the town into departments, divisions and bureaus, and defining the functions and duties of each. Subsequent to the adoption of such ordinance, upon recommendation of the Town Manager, the Town Council, by ordinance, may create, consolidate or abolish departments, divisions and bureaus, and define or alter the functions and duties of each. The compilation of these ordinances shall be known as the municipal administrative code. Prior to the adoption of the municipal administrative code, the Town Manager shall have the power to establish temporary rules and regulations to ensure efficiency and effectiveness in divisions of the municipal government. (Ord. 88-003, 4-12-1988)

**Footnote:** See [chapter 7](#) of this title.

# Chapter 7

## ADMINISTRATIVE CODE

- 1-7-1: SHORT TITLE:
- 1-7-2: DEFINITIONS:
- 1-7-3: INVALIDITY OR UNCONSTITUTIONALITY
- 1-7-4: INTERPRETATION
- 1-7-5: GOVERNMENT VESTED IN TOWN COUNCIL AND MANAGER
- 1-7-6: GOVERNMENTAL RESPONSIBILITIES
- 1-7-7: RELATIONSHIP BETWEEN COUNCIL AND MANAGER
- 1-7-8: TOWN MANAGER POSITION ESTABLISHED
- 1-7-9: APPOINTMENT OF TOWN MANAGER
- 1-7-10: REMOVAL OF TOWN MANAGER
- 1-7-11: TOWN OPERATIONS – TOWN ADMINISTRATION
- 1-7-12: TOWN ORGANIZATION
- 1-7-13: ADMINISTRATIVE POLICY AND PROCEDURES
- 1-7-14: OATH OF OFFICE
- 1-7-15: CONFLICT OF INTEREST AND USE OF OFFICE FOR PERSONAL BENEFIT PROHIBITED
- 1-7-16: CLAIMS AGAINST THE TOWN
- 1-7-17: HEARING OFFICER
- 1-7-18: PERFORMANCE BONDS AND DELAY AGREEMENT PREAPPROVED BY TOWN COUNCIL, SUBJECT TO COUNTERSIGNING BY TOWN MANAGER
- 1-7-19: BONDS
- 1-7-20: EMERGENCY MANAGEMENT SUCCESSION OF OFFICE
- 1-7-21: PENALTIES

### **1-7-1: SHORT TITLE:**

This chapter shall be known as the *BRIAN HEAD TOWN ADMINISTRATIVE CODE*.

### **1-7-2: DEFINITIONS:**

As used in this code, unless the context otherwise requires:

**MAYOR:** The chairperson of the Town Council and recognized "head" of the town for ceremonial and legal purposes.

**TOWN:** Brian Head Town, Utah.

**TOWN COUNCIL OR COUNCIL:** The Town Council of Brian Head Town, Utah.

**TOWN MANAGER:** The chief executive and administrative officer of the town of Brian Head Town, Utah.

### **1-7-3 INVALIDITY OR UNCONSTITUTIONALITY.**

Should any portion of the Town Administrative Code for Brian Head Town be found to be invalid or unconstitutional by a court of competent jurisdiction, all remaining portions not found to be invalid or unconstitutional shall remain in full force and effect.

### **1-7-4 INTERPRETATION.**

Nothing in this Chapter shall be interpreted to conflict with applicable State or Federal laws. No elected official, appointee, officer, or employee of the town shall be held personally liable for actions made in good faith pursuant to this Chapter, or policies or regulations developed pursuant to this Chapter, even if such actions, policies, or regulations are later found to be in conflict with Federal, State or other requirements.

### **1-7-5 GOVERNMENT VESTED IN THE TOWN COUNCIL AND MANAGER**

Town government is vested in a Town Council, which shall be the governing body of the town, and a Town Manager appointed by the Town Council.

### **1-7-6 GOVERNMENTAL RESPONSIBILITIES**

- A. The Town Council shall, except as otherwise required by state law or this Chapter, conduct the legislative affairs of town government.
- B. The Town Manager and supporting staff shall, except as otherwise required by State law or this Chapter, conduct the administrative and executive affairs of town government.

### **1-7-7 RELATIONSHIP BETWEEN COUNCIL AND MANAGER**

- A. The Town Council and Town Manager have separate and distinct duties and responsibilities. Each shall allow the other to perform their duties and responsibilities without improper interference.
- B. The Town Manager, in supervising the administrative and executive activities of the town, shall attempt to carry out the will of the Town Council. The Town Council shall express its will through ordinances, resolutions, motions, proclamations, budget approvals and general

policy directives. The will of the Town Council shall be expressed by vote of the Council. No statement or act of any individual member of the Council shall be viewed as the will of the Council.

- C. The Town Manager shall support and assist the Town Council in accomplishing its duties and responsibilities by identifying policy areas that require Council attention, by recommending the adoption of specific ordinances, resolutions or other measures, by preparing and proposing an annual budget and advising the Council of the financial condition and needs of the Town, and by keeping the Council abreast of events happening in the town and matters that affect the town.
- D. The Town Council shall support and assist the Town Manager in accomplishing his or her duties and responsibilities by providing specific policy directives, and by providing the resources necessary to accomplish those directives.
- E. No member of the Town Council shall direct or request, excepting in writing, the appointment of any person to, or removal from office. No member of the Town Council shall interfere in any way with appointed officers in the performance of their duties. No member of the Council shall give an order to any subordinate of the Town Manager, either publically or privately, but may make suggestions and recommendations to the Town Manager.
- F. The Town Manager shall have sole authority for appointment or removal of town staff with the advice and consent of the Town Council for specific positions as provided for in this title.
- G. Nothing in paragraph E, above, shall prevent the Town Council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer, department or agency of the town government, or any matter relating to the welfare of the town, and delegating to these committees such powers of inquiry as the Town Council may deem necessary. Any committee appointed to investigate the conduct of any officer of the town shall be authorized to review that officer's personnel records.

#### **1-7.8 TOWN MANAGER POSITION ESTABLISHED:**

The position of Town Manager is hereby established.

#### **1-7-9 APPOINTMENT OF TOWN MANAGER.**

- A. The Town Manager shall be appointed by two-thirds vote of the full membership of the Town Council.
- B. The Town Manager shall be appointed solely on the basis of his or her abilities, integrity, and prior experience relating to the duties of the office, including but not limited to, abilities in public administration and executive leadership, and shall possess such leadership and managerial capabilities as in the opinion of the Council befit him or her to provide professional direction to the executive affairs of the Town.



## **1-7-10 REMOVAL OF TOWN MANAGER.**

- A. The Town Council may remove the Town Manager by majority vote.
- B. Except in the case of removal for proven malfeasance in office, the Council shall cause the manager, upon his or her removal, to be paid any unpaid balance of his or her salary due to the date of removal, together with his or her salary at the same rate for the next six calendar months following the date of removal.

## **1-7-11 TOWN OPERATIONS**

### **A. Town Administration.**

The administration of the Town shall be conducted by and through the Town Manager and the operating departments as identified in [1-7-13](#).

The Town Manager shall be the chief executive and administrative officer of the town government, and shall:

1. Faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the Town are observed
2. Carry out the policies and programs established by the Town Council;
3. Organize and direct the management of the executive affairs of the town in a manner consistent with the council-manager form of government<sup>1</sup> and with town ordinances;
4. Appoint a budget officer, or be the budget officer in the absence of such appointment, for the purpose of complying with the requirements of the uniform municipal fiscal procedures act.
5. Appoint, with the advice and consent of the Town Council, a qualified person to each of the offices of Public Safety Director and Public Works Director, Clerk, Treasurer, boards and commissions; create any other offices as may be deemed necessary for the good government of the town; and regulate and prescribe the powers and duties of all other officers of the town, except as provided by law or by ordinance.
6. Appoint, with the advice and consent of the Town Council, a qualified person to the position of Town Attorney and Town Engineer. These offices will be identified by resolution.
7. Examine and inspect the books, records and official papers of any office, department, agency, board, or commission of the town, and make investigations and require reports from personnel.
8. Subject to the provisions of the council-manager form of government<sup>1</sup> and the town administrative code, and with the advice and consent of the Town Council, have the

ability to suspend, remove or terminate department heads, statutory officers, boards, commissions, Town Attorney and Town Engineer.

9. Establish standards, qualifications, criteria, and procedures to govern the appointments, by heads of offices, departments, and agencies or by other authorized officers, of divisional officers, assistants, deputies, and employees within their respective organizational units, subject to any applicable provisions of the merit system and Administrative Code.
10. Submit to the Town Council plans and programs relating to the development and needs of the town, monthly financial statements, annual and special reports concerning the financial, administrative and operational activities of the town offices, departments, agencies, boards, and commissions, together with his or her evaluation and recommendations relating to them.
11. Attend all meetings of the Town Council and take part in its discussions and deliberations, but without the right to vote.
12. Appoint, with approval by majority vote of the full membership of the Town Council, an acting town manager to serve in his or her absence or temporary incapacity to perform the powers and duties of the Town Manager. This shall be set by resolution.
13. Discharge any other duties specified by statute or imposed by the Town Council.

## **B. Supplemental Powers of Town Manager**

In addition to the powers and duties enumerated in Section [1-7-11.A](#), the Town Manager may:

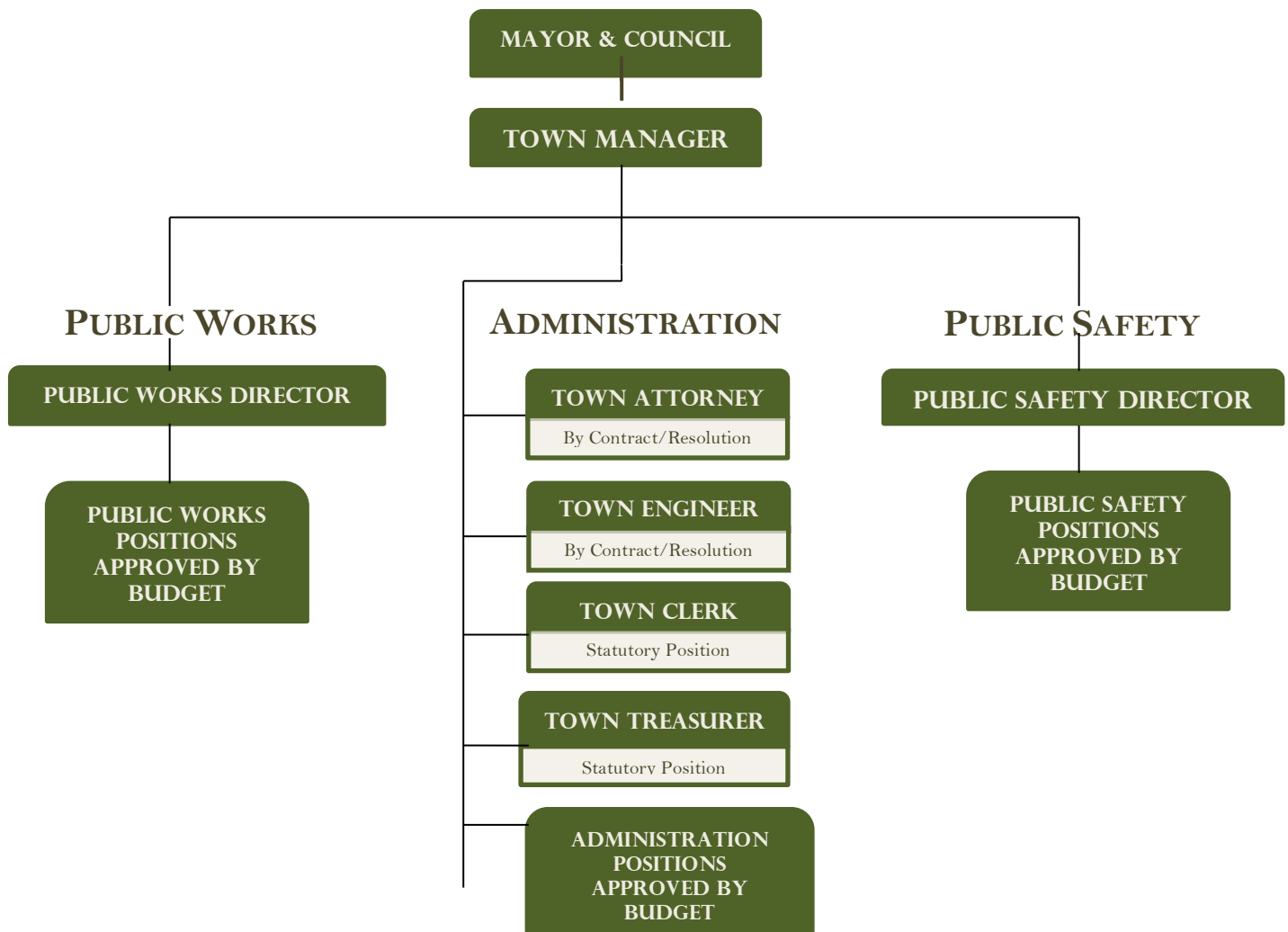
1. Authorize a department head or officer responsible to him to appoint and remove subordinates serving under that department head or officer;
2. Designate himself/herself, unless the office legally requires a particular designation or certification, or some other officer or employee to perform the duties of any office or position under his control which is vacant or which lacks administration due to the absence or disability of the incumbent.
3. Assign any employee of the town to any department or branch thereof requiring services appropriate to the personnel system classification of the employee so assigned.
4. Assign any department, division or office to perform the work for any other department, division or office, except where legally prohibited.
5. Prescribe policies, rules and regulations, not inconsistent with the law to ensure efficiency and effectiveness in the operation of town government.
6. Execute administrative agreements which carry out the directives of the Town Council
7. Have the power, either by himself/herself or by any officer or person designated for the purposes to him/her, to investigate and examine or inquire into the affairs or operation of any department, division or office; and when so authorized by the Town Council, he/she

shall have the power to employ consultants and professional counsel to aid in such investigations, examinations or inquires.

8. Approve pay increases and bonuses for town employees when appropriate within approved budget levels.
9. Set aside any action taken by a department head and may supersede them in the functions of their office.
10. Negotiate and settle all claims presented against the town where payment in settlement does not exceed the amount of any deductible in any town insurance policy, so long as the sum does not exceed twenty five thousand dollars (\$25,000).
11. Power to designate committees as he/she shall find necessary for the proper consideration of issues affecting the town. Such committees shall meet at the request of the Town Manager and shall make such recommendation on matters referred to them as they shall find necessary for the best interest of the town.
12. Unilaterally declare any property valued at one thousand dollars (\$1,000) or less, as estimated by him/her, to be surplus to the needs of the town and dispose of said property, if possible, by sale for the best price.
13. Accept, reduce, extend and release performance bonds, payment bonds, and delay agreements required or established under this code. The Town Manager shall notify the Town Council of such acceptances, reductions, extension and releases by a periodic report to the Town Council.
14. Perform any other activity, not inconsistent with law that is necessary to effectively administer the operations of the Town or to fulfill the will of the Town Council.

#### **1-7-12 TOWN ORGANIZATION:**

- A. The town organization shall be divided into such offices and the following departments as the Town Manager may require:



B. The Mayor may appoint members of the Town Council to act as a council liaison with each department. Such liaisons shall be for the sole purposes of obtaining information for use by the Town Council in carrying out its functions and providing for a means of communication by the department with the Town Council. Council members serving as liaisons are subject to, and shall strictly comply with, the provisions of this chapter regarding interference with town administration.

**1-7-13 ADMINISTRATIVE POLICY AND PROCEDURES:**

A. Each officer of the town shall perform all duties required of their office by state law, this code and other ordinances of the town, and such other duties not in conflict therewith as may be assigned by the Town Manager.

B. The heads of departments shall:

1. Be immediately responsible to the Town Manager for the effective administration of their respective departments and all activities assigned thereto.
2. Develop and maintain such up to date departmental policies and procedures as they deem necessary for carrying out departmental operations in conformity with law and other town policies and in the most efficient and effective manner possible.
3. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the town manager, such new practices as appear to be of benefit to the town and to the public.
4. Submit regular reports of the activities of the department to the Town Council.
5. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the town manager.
6. Have power, when authorized by the Town Manager, to appoint and remove, subject to town personnel policies and procedures, all subordinates
7. Exercise authority of all subordinates unless such subordinate has certification or licensing not possessed by the department head. The fact that a subordinate possesses a license or certificate not possessed by the department head shall not authorize said subordinate to overrule the department head on matters of departmental policy.
8. Be responsible for the proper maintenance of all town property and equipment used in his department.

C. Each department shall cooperate with other departments and furnish, upon the direction of the Town Manager, any other department such service, labor and materials as may be requisitioned by the head of such department and as its own facilities permit, through the same procedures and subject to the same audit and control as other expenditures are incurred.

D. All departments and units thereof shall:

1. Be open during regular business hours as defined by the Town Manager.
2. Make a regular deposit, as required by state law, with the Town Treasurer of any public monies.
3. Pay out monies belonging to the town only in the manner prescribed by law, ordinance and town policy.
4. Deliver all records, documents and property of every description, belonging to the office or to the town, to the successor in office.

5. Stay within the approved budget for the department.

#### **1-7-14 OATH OF OFFICE:**

- A. All elected officials, Town Manager, department heads, Clerk, Treasurer and appointed commissions shall take the constitutional oath of office before assuming the duties of their respective offices. Once an oath is administered, the oath need not be re-administered unless job assignment or description changes.
- B. The form of oath shall be as authorized by the laws of the state.
- C. Appointed officers shall take their oath at any time before assuming their duties.
- D. No official act of any person required to take the constitutional oath of office shall be invalid for the reason that he or she failed to take the oath of office.
- E. The Town Manager may require any other officer or employee to take the oath of office.
- F. All oaths of office shall be filed with the Town Clerk.

#### **1-7-15 CONFLICT OF INTEREST AND USE OF OFFICE FOR PERSONAL BENEFIT PROHIBITED.**

- A. Each public servant shall comply with the provisions of the Utah Municipal Officers and Employees Ethics Act, [Sections 10-3-1301](#) et seq. U.C.A. (1953, as amended) and among other things but not by way of limitation the conduct themselves consistent with the following Utah statutes: the Utah Public Officers' and Employee's Ethics Act ([U.C.A. § 67-16-1](#), et seq., as amended); Utah law prohibiting employment of relatives ([U.C.A. § 52-3-1](#), et seq., as amended), U.C.A. § 10-6-146; and U.C.A. §§ 76-8-105, 201, 202, 203 and 402.
- B. Whenever the performance of a public servant's official duty requires governmental action on any matter involving that person's or a relative of that person's direct financial or personal interest and it is reasonably foreseeable that the decision will have an individualized material effect on such interest, distinguishable from its effect on the public generally, the public servant shall disclose the conflict and disqualify herself or himself from deliberating, deciding and voting upon the matter. Disclosure shall be made to the public body of which the public servant is a member, or in the case of an employee of the town, to the employee's supervisor.
- C. Subsection B shall not apply to (1) decisions regarding the payment of salaries, benefits, or other compensation made by the town in exchange for the performance of the public servant's official duties, (2) decisions regarding the attendance at official functions or training where the public servant is sent by or representing the town as part of his or her official duties, or (3) similar decisions which are part of the public servant's official duties and are approved through normal town channels or procedures.

- D. For purposes of this section “public servant” shall be defined as any elected or appointed official of the town, any member of a board, commission or committee of the town, or any employee of the town. “Relative” shall be defined as the immediate family of a public servant.

#### **1-7-16 CLAIMS AGAINST TOWN.**

All claims against the Town shall be filed according to State law, including the Utah Governmental Immunity Act, and handled according to any policies or procedures adopted by the Town Manager.

#### **1-7-17 HEARING OFFICER:**

- A. Hearing Officer: There is hereby created a Hearing Officer to hear employee appeals of a final decision under Utah Code Annotated § [10-3-1106](#). (Ord. 15-010, 6-23-2015)
- B. Selection and Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Town Council after a recommendation from the Town Manager. The Town Manager shall identify a qualified candidate who can competently fill the position. The candidate shall have knowledge of public human resource law and appeals procedures. The candidate shall be impartial and not have any conflicts with the town. (ord. 15-010, 6-23-2015)
- C. Right to Appeal. All full-time employees of the town, other than those employees identified in UCA § [10-3-1105\(2\)](#), shall have the right to appeal any discharge, suspension of more than two days, or involuntary transfer for less remuneration to the Hearing Officer. (ord. 15-010, 6-23-2015)
- D. Appeals Procedure: The Hearing Office and town employees shall comply with the appeal procedures set forth in UCA § [10-3-1106](#) as well as the town’s current personnel policy and procedure manual. (ord. 15-010, 6-23-2015).

#### **1.7.18 PERFORMANCE BONDS AND DELAY AGREEMENTS PREAPPROVED BY TOWN COUNCIL, SUBJECT TO COUNTERSIGNING BY TOWN MANAGER:**

- A. Performance bonds and delay agreements, as approved by the town attorney and required by the subdivision ordinance, zoning ordinance and other town ordinances, are hereby approved and adopted by the Town Council for each development that receives the proper approvals and permits as required by said ordinances. A copy of the bond and delay agreement forms shall be filed with the Town Council by the Town Manager each time it is amended.
- B. The manual or facsimile signature of the Mayor is hereby authorized on said bonds and delay agreements without the necessity of each one being brought to the Town Council,

except that no such bond or delay agreement shall be valid until it has been countersigned manually by the Town Manager and attested to by the Town Clerk.

- C. The time for completion of the improvements under said bonds may be extended by the Town Manager, as provided in the applicable provisions governing said bonding.

#### **1-7-19 BONDS:**

Such town officials, as determined by the Town Manager, shall, before entering upon the duties of their respective offices, shall be bonded with good and sufficient sureties, payable to the town, duly approved by the Town Attorney, and conditioned upon the faithful performance and discharge of their respective duties, and for proper application and payment of all money or property coming into their hands by virtue of their offices, in the amount of twenty five thousand dollars (\$25,000.00) each, except for the Town Treasurer, who shall give bond in the amount as prescribed by state law for town treasurers. The town shall pay all premiums for the above required bonds.

#### **1-7-20 EMERGENCY MANAGEMENT SUCCESSION OF OFFICE:**

- A. Definitions:

**ABSENT:** Not physically present or not able to be communicated with for forty eight (48) hours, or, during an emergency, a shorter period of time as determined by the town manager on a case by case basis. "Absent" does not include a person who can be communicated with via telephone, radio, telecommunications or electronic means.

**EMERGENCY INTERIM SUCCESSOR:** A person designated to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable. For purposes of this section only, "officer" means the Town Manager, Department Heads, Town Clerk, Town Treasurer, and Emergency Management Coordinator.

**UNAVAILABLE:** Absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

All other definitions found in Utah Code Annotated [Section 53-2a-102](#) (emergency management act- UCA) as amended, are incorporated herein as may be applicable.

- B. Each "officer", as defined in this section, shall provide to the Town Manager, a written list designating three (3) emergency interim successors and their order of succession. Thereafter, each officer shall submit a new list only when the officer or any of the successors changes.



- C. After the Town Manager approves the emergency interim successors and their order of succession, the Town Manager shall compile a master list for the town and submit it to the division of comprehensive emergency management for the state.
- D. If the officer is unavailable once a disaster has occurred, the designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession. The emergency interim successor shall exercise the powers and duties of the office only until the vacancy is filled in accordance with the constitution or statutes, or until the officer, his deputy or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.
- E. The emergency interim successor shall not be required to take an oath of office, unless specifically provided by law.
- F. All emergency interim successors serve at the pleasure of the Town Manager, and may be removed and replaced at any time, with or without cause.
- G. The Town Manager, upon a determination that the town hall is not capable of functioning as the seat of government for the town, may designate another location, outside of the town if necessary, to serve as a seat of government during the emergency.

#### **1-7-21 PENALTIES:**

Any employee violating the provisions of this chapter may be reprimanded, suspended or removed from office by the Town Manager, as provided by law or the town personnel policies and procedures. The provisions of this chapter however, are directory and to promote the orderly functioning of the town only, and are not intended to hold the town or its personnel to a higher duty than otherwise required by law or subject the town or its personnel to criminal sanctions or civil liability. (amd Ord. 14-008, 10-28-2014)

<sup>1</sup> Former Council-manager form of government is provided for in Laws of Utah 1977, Chapter 48. This form of government is no longer available as of May 2008. Those cities operating under council-manager form will continue to do so until an election to change the form of government.

## Chapter 8

### MAYOR AND TOWN COUNCIL

#### 1-8-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS:

#### 1-8-2: MAYOR:

#### 1-8-3: VACANCIES:

#### 1-8-4: ORDINANCES AND RESOLUTIONS; PROCEDURES:

#### **1-8-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS:**

- A. Statute Requirements: A person filing a declaration of candidacy for a municipal office shall meet the requirements of Utah Code Annotated section [20A-9-203](#).
- B. Registered Voter: Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.
- C. Residency:
  - 1. Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.
  - 2. If an elected officer of a municipality establishes a principal place of residence, as provided in Utah Code Annotated section 20A-2-105, outside the municipality during the officer's term of office, the office is automatically vacant.
- D. Continuous Absence: If an elected municipal officer is absent from the municipality any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the municipal legislative body, the municipal office is automatically vacant. (1984 Code § 8-1-5; amd. 2010 Code)

#### **1-8-2: MAYOR:**

- A. Presiding Officer: The Mayor shall be the presiding officer of meetings of the Town Council and shall have a vote in all council meetings. All bonds, notes, contracts and written obligations in the town shall be executed on its behalf by the Mayor, or in the event of his inability to act, by a Council Member that the Council shall designate to act as Mayor Pro Tempore during his absence, disability or refusal to act. He shall be chief ceremonial officer in the town and shall represent the town in all its external relationships. The Mayor shall have the duty to perform civil marriages as provided under Utah Code Annotated. In the absence of the Mayor, or because of his inability or refusal to act, the Town Council may elect one of its members to preside over the meeting as Mayor Pro Tempore, who shall have all the powers and duties of the Mayor to act during his absence, disability or refusal to

act. The election of the Mayor Pro Tempore shall be entered in the minutes of the Town Council. The powers and duties of the Mayor shall be only those conferred upon him by this section.

- B. Signature Required: The Mayor's signature, properly attested by the Town Clerk, shall be required on all deeds made by the town, except as otherwise authorized by the Town Council, provisions of law or town ordinance. The signature of the Mayor shall also be required on all contracts to which the town is a party. (Ord. 88-004, 4-12-1988)

### **1-8-3: VACANCIES:**

Mayor or Town Council vacancies shall be filled as provided in Utah Code Annotated section [20A-1-510](#). (1984 Code § 8-1-6; amd. 2010 Code)

### **1-8-4: ORDINANCES AND RESOLUTIONS; PROCEDURES:**

- A. Power Exercised By Ordinance: The Town Council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel. (2010 Code)
- B. Form Of Ordinance: Any ordinance passed by the Town Council shall contain and be in substantially the following order and form:
1. A number;
  2. A title which indicates the nature of the subject matter of the ordinance;
  3. A preamble which states the need or reason for the ordinance;
  4. An ordaining clause which states "Be it ordained by Brian Head Town";
  5. The body or subject of the ordinance;
  6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
  7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
  8. A line for the signature of the Mayor or acting Mayor to sign the ordinance;

9. A place for the Town Clerk to attest the ordinance and affix the seal of the town;
10. Where the Mayor may disapprove an ordinance passed by the Town Council, the ordinance must show it was passed with the Mayor's approval, or if the Mayor disapproved the ordinance, that it was passed over his disapproval. If the Mayor neither approves or disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the Mayor. (1984 Code § 10-2-1; amd. 2010 Code)

C. Requirements As To Form; Effective Date:

1. Ordinances passed or enacted by the Town Council shall be signed by the Mayor, or if he is absent, by the Mayor Pro Tempore, or by a quorum of the Town Council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated section [10-3-704](#)(1), (2), (3) or (4). Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the governing body, whichever is sooner. (1984 Code § 10-2-2; amd. 2010 Code)
2. Ordinances shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the Town Council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance. (1984 Code § 10-2-3; amd. 2010 Code)

D. Publication And Posting Of Ordinances:

1. Before an ordinance may take effect, the legislative body of the town adopting an ordinance, except an ordinance enacted under Utah Code Annotated sections [10-3-706](#) through [10-3-710](#), shall:
  - a. Deposit a copy of the ordinance in the office of the Town Clerk; and
  - b. (1) Publish a short summary of the ordinance at least once:
    - (A) In a newspaper published within the town; or
    - (B) If there is no newspaper published within the town, in a newspaper of general circulation within the town; or
  - (2) Post a complete copy of the ordinance in three (3) public places within the town.
2.
  - a. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the Town Clerk prior to the adoption of the ordinance by the governing body.

- c. Any state law relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.
- d. The ordinance adopting the code or book shall be published in the manner provided in this subsection. (2010 Code)

E. Recording, Numbering And Certification Of Passage: The Town Clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the Town Council. All ordinances shall be numbered with each number to contain the year the ordinance was finally passed by the Town Council, followed by a hyphen, followed by a sequential number beginning with the first ordinance passed in each year (i.e., 1984-1, 1984-2...1985-1...). Immediately following each ordinance, the Town Clerk shall make a certificate stating the date of passage and of publication of the ordinance. (1984 Code § 10-2-4)

F. Resolutions:

1. Purpose: Unless otherwise required by law, the Town Council may exercise all administrative powers by resolution, including, but not limited to: a) establishing water and sewer rates; b) charges for garbage collection and fees charged for town services; c) establishing personnel policies and guidelines; and d) regulating the use and operation of the town property. Punishment, fines or forfeitures may not be imposed by resolution.
2. Form: Any resolution passed by the Town Council shall be in a form and contain sections substantially similar to that prescribed for ordinances.
3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the Town Council may determine, but resolutions may not become effective more than three (3) months from the date of passage. (2010 Code)

## Chapter 9

# CAMPAIGN FINANCE DISCLOSURE

### 1-9-1: COMPLIANCE WITH STATE STATUTE REQUIRED:

#### **1-9-1: COMPLIANCE WITH STATE STATUTE REQUIRED:**

All candidates for elective office shall comply with the campaign finance disclosure requirements set forth in Utah Code Annotated [section 10-3-208](#). (Ord. 01-003, 7-10-2001; amd. 2010 Code)

# Chapter 10

## ELECTIONS

### 1-10-1: ELECTIONS:

### 1-10-2: ABSENTEE VOTING:

#### **1-10-1: ELECTIONS:**

Election for mayor and council members shall be conducted according to the municipal election section of Utah Code Annotated section [20A-9-404](#). (1984 Code § 8-1-2; amd. 2010 Code)

#### **1-10-2: ABSENTEE VOTING:**

The town hereby identifies a "by mail" (absentee ballot) prescient as per Utah Code Annotated section [20A-3-302](#), in which its population is less than five hundred (500) residents and would eliminate the requirement for poll workers and election judges during the early voting and election day. (Ord. 07-019, 5-22-2007, eff. 5-22-2007; amd. 2010 Code)

# **Title 1 – Administration**

## **Chapter 11 PURCHASING PROCEDURES**

**1-11-1: CONTRACT VALIDITY AND EXECUTION:**

**1-11-2: PURCHASING ADMINISTRATION:**

**1-11-3: COMPETITIVE BIDDING; WHEN NECESSARY:**

**1-11-4: BIDDING PROCEDURES:**

**1-11-5: EXCEPTIONS TO BIDDING REQUIREMENTS:**

**1-11-6: LOWEST RESPONSIBLE BIDDER:**

**1-11-7: EMERGENCY PURCHASES:**

**1-11-8: INSURANCE AND BONDS:**

**1-11-9: BID BONDS:**

**1-11-10: PERFORMANCE BONDS:**

**1-11-11: PUBLIC RECORD:**

**1-11-12: PROHIBITION AGAINST SUBDIVIDING:**

**1-11-13: INTERLOCAL COOPERATION:**

**1-11-14: DISCLOSURE OF INTEREST:**

**1-11-15: PROHIBITED PRACTICES:**

**1-11-16: PENALTY:**

### **1-11-1: CONTRACT VALIDITY AND EXECUTION:**

- A. No liability against the town shall or may be created and no expenditure of public funds may be made which is not for a public purpose.
- B. No contract may become valid or is binding against the town until:
  - 1. The contract has been reduced to writing;
  - 2. The town has received certification from the Town Treasurer that funds are lawfully available within budgeted appropriations to fulfill the town's financial obligations thereunder;
  - 3. Where certifications of compliance with federal contract or grant assurances are required, the documents are approved as to form by the Town Attorney;
  - 4. The contract has been administered by the Town Manager or appropriate department head and fully complies with the requirements of the department involved;



5. The contract has been reviewed by the Town Attorney and executed by the Town Manager or appropriately authorized department head, or where required, the Mayor; and
6. The signature of the Mayor, if required, has been attested by the Town Clerk. (Ord. 02-002, 2-12-2002)

### **1-11-2: PURCHASING ADMINISTRATION:**

The Town Manager and department heads shall have the responsibility for the purchasing activities of the town and its various departments as set forth herein. (Ord. 02-002, 2-12-2002)

### **1-11-3: COMPETITIVE BIDDING; WHEN NECESSARY:**

- A. **Supplies, Equipment And Services:** Except as otherwise provided in this chapter, purchases of supplies, equipment or contractual services of an estimated value less than twenty five thousand dollars (\$25,000.00) shall be effected only by contract with the lowest responsive and responsible bidder pursuant to solicitation of verbal bids. Such purchases with an estimated value of twenty five thousand dollars (\$25,000.00) or greater shall be by written contract with the lowest responsive and responsible bidder, pursuant to the formal procedure hereinafter prescribed. Value amounts used herein refer to both unit cost and combined multiple unit costs, and determination shall be made by the Town Manager of the necessity of bidding after review of the pertinent requisition and specifications. Purchases of supplies, equipment or contractual services of an estimated value less than five thousand dollars (\$5,000.00) may be made in the open market without complying with bidding procedures, but at least three (3) informal bids (price quotations) should be utilized by the Town Manager or department head whenever possible, with bids solicited from prospective vendors either in writing or by telephonic request.
- B. **Construction Projects:** Except for maintenance and improvement projects performed by town personnel, all construction projects estimated by the Town Engineer or other appropriate party to have a value in excess of twenty-five thousand dollars (\$25,000), or where required by state law, shall be advertised for bid and awarded to the lowest responsive and responsible bidder pursuant to the procedure hereinafter prescribed. All such contract awards shall be made by written contract as provided in section 1-11-1 of this chapter.
- C. **Bids Not Required For Certain Work:** It is the policy of the town to reserve to itself all legal prerogatives to perform services and work with its own personnel and equipment; therefore, nothing in this chapter shall be construed to require bids to be called for or contracts let for: 1) conducting or managing any department, business or property of the town; 2) installing, lowering or repairing water mains or sewers or making connections with water mains or sewers; or 3) grading, repairing, relocating or maintaining streets, sidewalks, bridges, culverts or conduits; except where other provisions of state statutes may limit the value of work that can be performed by the town on its own account in these excluded areas. Any portion of a public works or improvement project not included in the above description shall

be effected through bid and contract as provided in subsection B of this section, if the cost thereof is twenty five thousand dollars (\$25,000.00) or more.

- D. Professional Services: Contracts for professional services estimated to be in excess of twenty-five thousand dollars (\$25,000.00) shall be awarded at the discretion of the Town Council, including, but not limited to, auditing, banking, insurance, legal, engineering and similar professional consultation.
- E. Refusal To Receive Bids: The Town Manager may promulgate rules, procedures and regulations for guidance of the department heads to preclude contractors or suppliers from submitting bids where said proposed bidder has not completely satisfied prior notices to comply with construction documents, drawings and/or other specifications, or has otherwise failed to perform any work for the town or the state in a timely and satisfactory manner. If adopted, such rules and procedures shall provide for reasonable notice to the contractor and opportunity for hearing. (Ord. 02-002, 2-12-2002)

#### **1-11-4: BIDDING PROCEDURES:**

Where formal bidding is required, the lowest responsive and responsible bidder shall be determined through use of the following procedures:

- A. Notice For Bids: Notices inviting bids shall include a general description of the articles or services to be purchased, advise where bid forms and specifications are available, and state the time and place for opening bids. Under normal circumstances a notice shall be published at least twice in a newspaper of general circulation in the town with the first such publication occurring at least fourteen (14) days before the date of opening bids and the last such publication occurring at least five (5) days before the date of opening bids. In special circumstances where time is of the essence and authorized by consent of at least three (3) members of the Town Council, notice shall be published at least once in a newspaper of general circulation in the town with the publication occurring at least five (5) business days before the date of opening bids. Sealed bids shall be solicited from all responsive and responsible prospective bidders whose names are on any bidders list maintained by the town for the article or service being purchased. Where applicable, notice shall contain the town engineer's estimate of cost or advise as to its availability whenever such cost estimate has been made.
- B. Bid Opening: Sealed bids shall be submitted as designated in the notice with the statement "Bid for (Item)" on the envelope. Bids shall be opened in public at the time and place stated in the notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
- C. Rejection Of Bids: The Town Manager or Town Council, as the case may be, shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the low responsive and responsible bid exceeds Tie Bids: If two (2) or more bids received are for the same total amount or unit price, with quality and service being equivalent, and if the public interest will not permit the delay of re-advertising for bids, the town shall accept the lowest bid made after negotiation with the tie bidders at or after the time of the bid opening.

- D. Tie Bids: If two (2) or more bids received are for the same total amount or unit price, with quality and service being equivalent, and if the public interest will not permit the delay of re-advertising for bids, the town shall accept the lowest bid made after negotiations with the bidders at or after the time of the bid opening.
- E. Award Of Contracts: Contracts under one thousand dollars (\$1,000.00) shall be awarded by the department head of the department intending to purchase the supplies or services. Contracts for more than one thousand dollars (\$1,000.00), but less than twenty five thousand dollars (\$25,000.00), shall be awarded by such department head with the concurrence of the Town Manager. The Town Manager is granted discretion to change the amounts for purchases to be made by approval of only the department head down to five hundred dollars (\$500.00) or up to two thousand five hundred dollars (\$2,500.00). Contracts of twenty five thousand dollars (\$25,000.00) or more shall be awarded to the lowest responsive and responsible bidder by the Town Council, except that in the event the Town Council, as part of its review and approval of the town budget, has approved a specific line item appropriation for the supplies or services, the contract may be awarded by the Town Manager, regardless of amount, as long as the approved line item appropriation is not exceeded. In such event, the Town Manager shall follow applicable bidding requirements before award of the bid.
- F. Local Preference: In awarding bids for public work or the procurement of supplies or services, preference shall be given to residents of Iron County when quality, suitability and performance are equal. If the bid or offering from a non-preferred bidder submitted in response to an invitation to bid is the low bid and there is a preferred bidder, then the supplies, services or construction shall be obtained from or awarded to the preferred bidder if the lowest bid of a preferred bidder is within five percent (5%) of the low non-preferred bid and if he agrees to meet the low bid, in writing, within seventy two (72) hours after the notification to him that he is a qualifying preferred bidder. Such notice shall contain the exact price or bid submitted by the non-preferred bidder, and the town shall enter into no contract until seventy two (72) hours have elapsed after notification to the qualifying low preferred bidder. For purposes of this subsection a "resident" is one who maintains its principal place of business in Iron County on the date of award and for at least ninety (90) consecutive days prior to such date. (Ord. 11-005, 6-14-2011, eff. 6-14-2011)

#### **1-11-5: EXCEPTIONS TO BIDDING REQUIREMENTS:**

- A. Uniqueness: Contracts which by their nature are not adapted to an award by competitive bidding, such as contracts for items available from a single source only, contracts for repair and maintenance of equipment already owned by the town which may be most efficiently performed by the originator of the equipment or its agent, contracts for the purchase of used equipment or items that are unique as to quality, condition and price, or contracts for a particular brand of equipment or product which is uniquely suited to the town's needs by reason of training of its personnel or compatibility with existing equipment, shall not be subject to the competitive bidding requirements of this chapter. Notwithstanding the exception from competitive bidding requirements, the town shall advertise in the same manner as provided in subs: If the Town Manager determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy, foreclosure or other similar sale, and that such purchase can be made at a cost below the market cost

in the county, the purchase may be made without complying with the competitive bidding requirements of this chapter if otherwise allowed by law.

- C. Necessity Of Council Approval: An exception to bidding requirements under this section shall not eliminate the necessity of Town Council approval of any contract in excess of twenty five thousand dollars (\$25,000.00) and for which a line item appropriation has not been made in the town budget. The only variation in the requirement for such approval shall be in the event of urgent time constraints creating an emergency, in which event an expenditure in excess of twenty five thousand dollars (\$25,000.00) may be authorized upon personal verbal approval of a majority of the council members, after explanation of the circumstances, subject to formal ratification at the first public council meeting after authorization of the expenditure. (Ord. 02-002, 2-12-2002)

### **1-11-6: LOWEST RESPONSIBLE BIDDER:**

- A. Considerations: In awarding to the lowest responsive and responsible bidder, the town shall consider, in addition to price:
1. The quality of supplies offered;
  2. The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;
  3. Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference;
  4. The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or provide the supplies or services;
  5. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  6. The quality of the bidder's performance on previous orders or contracts for the town or others;
  7. Litigation by or against the bidder, either pending or threatened, where claim is made that the bidder provided or furnished materially defective workmanship or materials to the town, or failed to substantially comply with bid specifications or contract terms and conditions;
  8. Any previous or existing noncompliance by the bidder with laws and ordinances of the town relating directly or indirectly to the subject of the contract;
  9. The ability of the bidder to provide future maintenance and service, where such maintenance and service is essential;
  10. Possession or ability to obtain all necessary town and state licenses either at the time of bid or before doing business with the town, as specified by the contracting agent;  
and

11. A statement by bidder of all subcontractors that will be used who may do or supply ten percent (10%) or more of the total contract being awarded, or a willingness to supply such listing of subcontractors at the time of bid award.
- B. Award To Other Than Low Bidder: When the award is not given to the lowest bidder, a statement of the reasons therefor shall be prepared by the department head involved, sent to and approved by the Town Manager, and filed with any other papers related to the transaction.
- C. Challenge To Action: Where a bid is protested by someone having standing to do so, or an irregularity is waived by the person awarding the bid, written notice of such protest or waiver shall be given to each bidder, immediately advising them of the right of any person adversely affected to file a protest with the Town Manager. Such protest must be made in writing within seventy-two (72) hours after the bid tabulation is made or after receipt of the notice of protest or waiver from the person awarding the bid, and failure to so file shall constitute a waiver of further challenge. Upon receipt of such challenge, the contract award process must cease until decision of the hearing board, as set forth below, unless the person responsible for award of the bid sets forth in writing particular facts and circumstances which require continuance of the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety or welfare. An administrative hearing of the protest shall be held within fifteen (15) days before a board made up of the person awarding the bid, the Town Manager and the Town Attorney. (Ord. 02-002, 2-12-2002)

#### **1-11-7: EMERGENCY PURCHASES:**

In case of an actual or apparent emergency which requires immediate procurement of supplies or contractual services, the Town Manager may approve acquisition at the lowest attainable price without further compliance with the procedures provided herein. In such event, however, a full report of the circumstances of an emergency purchase shall be filed with the Town Clerk by the Town Manager and shall be open to public inspection. An "emergency" is any fact, circumstance or situation which threatens injury or damage as the result of any happening or circumstance which would delay the work of the town in such manner as to vitally affect life, health or convenience of the public. (Ord. 02-002, 2-12-2002)

#### **1-11-8: INSURANCE AND BONDS:**

When directed by the Town Council or Town Manager, or when required by state statute or town ordinance, insurance certificates and/or bonds, whether permit, bid, performance or materialmen, shall be provided to the Town Clerk in a form approved by the Town Attorney and in amounts recommended by the department head affected and approved by the Town Manager. Such bonds or insurance shall: a) name the town as an additional insured; b) where cancelable, provide that no cancellation thereof may be made without first giving the town at least thirty (30) days' prior written notice; and c) be in sums sufficient to fully protect the town and its interests. All corporate guarantors or sureties shall be licensed to do business in the state and shall be sound and reputable firms, as determined acceptable to the Town Attorney. (Ord. 02-002, 2-12-2002)

**1-11-9: BID BONDS:**

- A. When Required: Bid security in an amount equal to at least five percent (5%) of the amount of the bid shall be required for all competitive sealed bidding for construction contracts where the total value of the contract is in excess of ten thousand dollars (\$10,000.00). Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or any other form satisfactory to the town.
- B. Failure To Comply: When a bidder fails to comply with the requirement for bid security set forth in the invitation for bids, that bidder's bid shall be rejected unless it is determined that the failure to comply with the security requirements is non-substantial.
- C. Irrevocable: After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided below. If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or bid security.
- D. Failure: If after being accepted the bid fails, the bid security bond shall be forfeited unless there has been a mistake in the bid of such consequence as to make it apparent that:
  - 1. A meeting of the minds never occurred and that enforcement of the contract would be unconscionable;
  - 2. Where the mistake related to a material feature of the contract;
  - 3. Where the mistake does not constitute culpable negligence or violation of a positive legal duty; and
  - 4. Where the town has been placed in status quo so that it suffers no serious prejudice. (Ord. 02-002, 2-12-2002)

**1-11-10: PERFORMANCE BONDS:**

- A. Public Improvements: The contractor on a project to construct public improvements shall be required to post performance and material-men bonds; provided, however, that if the estimated construction cost is under five thousand dollars (\$5,000.00), or if in bond will exceed the risk or benefit to the town, in which event the town may waive the performance bond requirement.
- B. Supplies Or Services: The Town Manager shall have the authority to require a performance bond before a contract is entered into to purchase or acquire supplies or services, in such amount as he may find reasonably necessary to protect the best interests of the town. (Ord. 02-002, 2-12-2002)

**1-11-11: PUBLIC RECORD:**

The statement of reasons for rejection of a low bid as provided in subsection [1-11-6](#) B of this chapter, the reasons for an emergency purchase made pursuant to section [1-11-7](#) of this chapter, any waiver pursuant to subsection 1-11-10A of this chapter, and any estimate of the cost of public construction work made by the Town Engineer pursuant to subsection [1-11-3B](#) of this chapter, where the estimate exceeds the sum of five thousand dollars (\$5,000.00), shall become a part of the official records of the town and shall be made available to the public upon request. (Ord. 02-002, 2-12-2002)

#### **1-11-12: PROHIBITION AGAINST SUBDIVIDING:**

No contract or purchase shall be subdivided so as to avoid the requirements of this chapter. (Ord. 02-002, 2-12-2002)

#### **1-11-13: INTERLOCAL COOPERATION:**

Wherever the public benefit can be maximized, and costs minimized by entering into joint agreements with other public agencies within the state for the purchase or construction of any commodity, service or public work, the town shall have the power to so agree, upon approval and action by the Town Council. (Ord. 02-002, 2-12-2002)

#### **1-11-14: DISCLOSURE OF INTEREST:**

Any purchase order or contract within the purview of this chapter in which any elected or appointed officer, or municipal employee, has a financial interest, direct or indirect, shall be void unless a sworn statement has been filed with the Town Manager disclosing the name and address of the entity dealing with the town in which the officer or employee has an interest or from which he receives compensation, and in the case of an elected or appointed officer, there is additional disclosure in an open meeting to members of the body before which the matter is presented. Disclosure statements filed pursuant hereto are public information and shall be available for examination by the public. (Ord. 02-002, 2-12-2002)

#### **1-11-15: PROHIBITED PRACTICES:**

It shall be unlawful for any officer, agent or employee of the town, or any outside party or entity dealing or seeking to deal with the town, to engage in any of the following practices:

- A. Collusion or other agreement among bidders or prospective bidders, in restraint of freedom of competition, to fix or in any way rig prices or bids. In addition, any bid tainted with such collusion shall be voidable at the option of the town.

- B. Disclosure in advance of the opening of bids of the amount or content of one bid to another bidder or potential bidder. If such disclosure is deemed sufficiently material by the Town Manager, it shall void the bidding process and require a new advertisement or request for bids.
- C. Tender or acceptance of any gratuity in the form of cash, merchandise or other thing of value by a bidder, vendor or contractor to an officer, agent or employee of the town, whether before or after a bid or contract.
- D. Purchase of supplies or equipment for the personal use of an officer, agent or employee of the town in the name of the town, whether part of a town purchase or contract or separate, and whether paid for with town funds or personal funds of the purchaser. Sole exception shall be where the item or items purchased are required parts of a worker's equipment or uniform and necessary to the successful performance of his duties as a town officer or employee, although personally owned by him. (Ord. 02-002, 2-12-2002)

**1-11-16: PENALTY:**

The penalty for actions made unlawful by this chapter shall be a class B misdemeanor or infraction, subject to penalty as provided in section [1-4-1](#) of this code, in the discretion of the charging Town Attorney, unless those action involve conduct which would be a felony under the laws of the state, in which event the town may refer the case to the County Attorney for prosecution. Imposition of a criminal penalty shall not affect the town's right to take administrative action with regard to an employee, impose sanctions against a contractor or purchaser, such as a refusal to deal with him further, or avail itself of any other right which it may have by law or otherwise. (Ord. 02-002, 2-12-2002; amd. 2010 Code)



# Chapter 12

## TOWN BOUNDARIES

### 1-12-1: EXISTING BOUNDARY

### 1-12-2: BOUNDARY MAP

### 1-12-3: ANNEXATIONS

#### **1-12-1: EXISTING BOUNDARY:**

The boundary or town limit shall be as existing on the effective date hereof, and the same may be changed from time to time by appropriate annexation ordinances or deannexation proceedings. (1984 Code § 1-1-1)

#### **1-12-2: BOUNDARY MAP:**

- A. **Compilation And Maintenance:** The Town Clerk shall, as soon as is practicable after the effective date hereof, compile an official boundary map showing the now existing boundary or limit of the town. Said map shall be submitted to the Town Council and upon adoption by the Town Council, shall constitute part of this section as though fully set forth herein and shall be determinative of the boundary of the town. Said map shall be changed from time to time as the boundary of the town changes. The official boundary map shall be maintained in the office of the Town Clerk and shall be open to public inspection. (1984 Code §1-1-2)
- B. **Contents Of Map:** The boundary map shall be in such form as the Town Clerk shall determine but shall contain sufficient details to show the exact boundary of the town. The map shall also, among other things, show all annexation, deannexation and respective dates thereof. Said map may, at the Town Clerk discretion, consist of an aerial photograph or photographs with appropriate markings. (1984 Code § 1-1-3)
- C. **Code Amendment Not Necessary:** It shall not necessary to amend any provision of this code to change the boundary or limit of the town. The Town Council shall adopt an appropriate ordinance changing the boundary and such change shall be indicated on the official boundary map. (1984 Code § 1-1-4)

#### **1-12-3: ANNEXATIONS:**

- A. Adoption Of State Law: The laws of the state, as set forth in Utah Code Annotated section [10-2-401](#) et seq., as amended, is hereby approved and adopted as the annexation and change of boundaries ordinance for the town, and by this reference is made part of this section as though set forth fully herein. (1984 Code § 1-2-1)
- B. Adoption Of Amendment: Whenever any amendment, revision or supplement is made to the state law referred to in subsection A of this section, the same shall become a revision, amendment or supplement to this section as though enacted by the Town Council and posted and recorded by the Town Clerk. (1984 Code § 1-2-2)
- C. Approved Annexations; Filing: Whenever real property annexation proposals are approved by the Town Council pursuant to state law requirements, copies of the annexation ordinances, with attached legal descriptions, shall be filed chronologically in the town offices by the Town Clerk, subject to inspection by any interested party and need not be incorporated in the town code. (1984 Code § 1-2-3)

# Title 1 – Administration

## Chapter 13

### PUBLIC BODY MEETING POLICY AND PROCEDURES

#### 1-13-1: PURPOSE:

#### 1-13-2: ESTABLISHMENT OF AGENDAS:

#### 1-13-3: COUNCIL / COMMISSION / BOARD PACKETS:

#### 1-13-4: OPEN AND CLOSED MEETINGS:

#### 1-13-5: ELECTRONIC TELECOMMUNICATIONS:

#### 1-13-6: MINUTES OF MEETINGS:

#### 1-13-7: MEETING PROCEDURE AND DECORUM; GENERAL RULES:

#### 1-13-8: ATTENDANCE / REMOVAL:

#### 1-13-9: MAYOR OR CHAIR RESPONSIBILITIES:

#### 1-13-10: MAYOR OR CHAIR PRO TEM RESPONSIBILITIES:

#### 1-13-11: MEMBER RESPONSIBILITIES:

#### 1-13-12: QUORUM:

#### 1-13-13: VOTING:

#### 1-13-14: ABSTENTION & RECUSING FROM VOTING:

#### 1-13-15: CONFLICTS OF INTEREST / DISCLOSURE STATEMENTS:

#### 1-13-16: MOTIONS:

#### **1-13-1: PURPOSE:**

In order to conduct the public's business in an open and efficient manner, the Town Council of Brian Head, Utah hereby establishes rules of order and procedure for public meetings of the town, including, but not limited to, the Planning Commission and the Town Council. These procedures and policies are to ensure a) parliamentary order and procedure; b) ethical behavior; and c) civil discourse. (Ord. 11-003, 5-24-2011, eff. 7-1-2011)

#### **1-13-2: ESTABLISHMENT OF AGENDAS:**

- A. All proposed agenda items from the public must be submitted to the Town Clerk or designee as an agenda request either in writing or by notifying the Town Clerk or designee. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. In order for information to be included in the meeting packet, all supporting documents must be submitted to the Town Clerk, or designee, six (6) days prior to the scheduled meeting of which the topic is to be addressed. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

- C. Upon receiving a request to be on the agenda, the Town Clerk, or designee, will route the request through the various town departments to receive Department Head's input. If a department feels that more research is needed, they will state the reason why in writing to the applicant and notify the Town Clerk, or designee, that it may not be identified on the agenda as requested. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- D. Four (4) days prior to the public meeting, the Town Clerk, or designee, along with the Town Manager will review all agenda requests to determine the final agenda for the next meeting. If the Town Manager deems necessary, he/she will request further input from the department heads. If a particular agenda request is not ready for the public meeting as requested, it may be removed, and the applicant will be notified. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- E. The Town Manager, or appropriate staff member will be expected to work with agenda applicants to ensure that the proper information is included in the packet, and the meeting procedures, proposed action, and any other information in order to make the agenda items flow smoothly. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- F. The Utah Open Meeting Act will be adhered to. The public has the right to request to be on the agenda, but must contact the Town Manager, Town Clerk or designee to submit applicable documents (if needed) for the packets if they wish to be addressed during an agenda topic requesting action from the public body, otherwise, the public has the option to address the public body during the public input portion of the agenda for non-agenda items, but no action will be taken by the public body. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- G. All agendas will comply with the Utah state open meeting act Utah Code Annotated [52-4](#) for noticing requirements. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

### **1-13-3: COUNCIL / COMMISSION / BOARD PACKETS:**

- A. The Town Clerk, or designee, will coordinate with the Town Manager, department heads and public to compile all documents necessary for the public meeting packets. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. Each agenda item will identify a memorandum as to the subject and any recommendations staff has m public body the three (3) days prior to the meeting unless extenuating circumstances prevail.
- C. Upon receiving the agenda application, the Town Clerk will route the application through the various town departments to receive department head input. If a department feels that more research is needed, they will state the reason why in writing to the applicant and may not be identified on the agenda as requested.
- D. Packets will be delivered electronically to the member's designated email four (4) days prior to the meeting unless extenuating circumstances prevail. If a member does not have an email; other means of submitting a packet will be used. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018)

#### **1-13-4: OPEN AND CLOSED MEETINGS:**

- A. The regular meetings of Town Council are hereby established by ordinance or order of the public body and may be amended with a majority vote of the public body establishing the regular meeting schedule by the end of the calendar year, specifying dates, times, and place of such meetings by motion. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. All meetings of public bodies of the town shall be held in compliance with the Utah State Open Meeting Act (UCA §52-4) regulating open and public meetings. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- C. A closed meeting may be held upon the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the public body members present at an open meeting for which the required notice has been given.
- D. Closed meetings will be held in compliance with the Utah State Open Meeting Act (UCA §42-4-205. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

#### **1-13-5: ELECTRONIC TELECOMMUNICATIONS:**

- A. The public body may convene and conduct an electronic meeting in accordance with UCA §42-4-207, as amended. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. The purpose of electronic telecommunications is to ensure a quorum is present for all public meetings. Members are discouraged from using electronic telecommunication procedures during their absence due to cost, logistic issues, and the importance of seeing body language and facial expressions of participants in the meeting to ensure a smooth and effective meeting. In special circumstances, a public body member may request the ability to attend a meeting via electronic means at the proceeding meeting via the approval of the Mayor and/or Chairperson of the public body. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- C. The Brian Head Town Hall currently located at 56 North Highway 143, Brian Head, Utah, shall be the anchor location for all electronic meetings, unless otherwise publicly noticed (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018)
- D. To participate electronically, the agenda shall identify the authority given to the public bodies to allow one or more members to participate electronically or by telecommunications. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018)
- E. A quorum of the public body must be present, either in person at the anchor location or by electronic participation. At minimum, two (2) members must be in attendance at the anchor location, if, for any reason, lack of communication with a member of the public body causes a lack of a quorum, no additional business may be conducted until the quorum can be reconstituted. Business already conducted remains valid and binding (Ord. 18-003, 5-29-2018)

#### **1-13-6: MINUTES OF TOWN COUNCIL MEETINGS:**

- A. Records: The public bodies of the town shall keep minutes of their proceedings. The approved minutes and associated documents of each public board shall be kept at the office of the Town Clerk. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. Minutes: Draft or pending minutes shall be made available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes, but no later than 30 days after the meeting. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- C. The draft or pending minutes shall contain a clear indication that the public body has not yet approved the minutes and are subject to change until the public body approves them. (Ord. 18-003, 5-29-2018).
- D. Minutes are the history of the community and should contain as much information necessary for clarity purposes. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- E. Approval Of The Written Minutes: The minutes of the current meeting should reflect that those minutes were "approved as presented", or if the draft minutes have corrections within the minutes, the minutes of the current meeting should reflect that those minutes were "approved as corrected or amended". Grammatical errors or typos which do not change the substance of the text are not identified as corrected minutes and the Town Clerk, or designee, will make minor corrections to the minutes. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- F. The Town Clerk shall within three (3) business days after the approval of the written minutes of an open meeting, post on the Utah Public Meeting Website and make available to the public a copy of the approved minutes and any public materials distributed at the meeting in accordance with UCA §52-4-203(4) (e) (ii). This provision shall apply only to the elected public body. (Ord. 18-003, 5-29-2018)

### **1-13-7: MEETING PROCEDURE AND DECORUM; GENERAL RULES:**

- A. The purpose is to ensure fairness and common courtesy to all members and public of the meeting. These procedures and policies are to ensure: 1) parliamentary order and procedure; 2) ethical behavior; and 3) civil discourse in an orderly and professional manner of conducting the public's business. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. The public body, staff and public will turn off or turn their cellphones to vibrate during an opening meeting. The exception for this rule will be the public safety officers.
- C. Any member of the public body or staff member that is expected to attend the meeting and will be absent or tardy shall inform the Mayor/Chairperson, Town Manager, or Town Clerk or designee prior to the meeting so as not to delay the start of the meeting. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- D. The Town encourages citizen's input during public meetings. The Mayor or Chair of the public body may invite the public to share their comments at the appropriate time during public hearings, public input, or public comments for a period of not more than three (3) minutes. The Mayor or Chair of the public body may also permit citizens to speak during

individual agenda items at his/her discretion when they feel that the comments will be pertinent to the topic. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

- E. Members of the public body shall not talk over one another, interrupt, or speak in a condescending manner to one another. It is expected the members shall take turns speaking, deferring to someone who intends to speak, and in general, maintaining civil rules of conduct toward one another, the staff, and public. Members of the public body and staff members are expected to dress appropriately for the meeting and office which they hold. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- F. When person(s) are addressing the public body, the person(s) should only speak on the merits of the topic immediately at hand.
- G. Printed materials should be distributed to the public body prior to the meeting. If the public wishes to distribute printed materials to the public body during a meeting, they may do so, but must have additional copies for the Town Clerk for the official record.
- H. No public body of the town will tolerate disorderly conduct which includes insulting language or behavior by any person, including members of the audience, the public body itself, or administration. No name calling, shouting or booing is allowed during a meeting and shall avoid reference to personalities and refrain from questioning motives and other members and staff. The Mayor or Chair of the public body may call the person to order or excuse them from the meeting. The town reserves the right to have a public safety officer in attendance at a meeting to maintain public order. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

#### **1-13-8: ATTENDANCE / REMOVAL:**

- A. The public body may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the town.
- B. The Town Council may issue subpoenas in its own name in the same manner as provided in the Utah rules of civil procedure. (Ord. 11-003, 5-24-2011, eff. 7-1-2011)
- C. Attendance of the members of the public body is expected at all scheduled meetings. If a member is not able to attend a meeting, they will notify either the Mayor/Chair, Town Manager, Town Clerk, or designee of their absence prior to the meeting. (Ord. 18-003, 5-29-2018)
- D. The Town Manager may remove a member from a public board, with the exception of the Town Council, with the advice and consent of the Town Council for cause after filing written charges against the member. (Ord. 18-003, 5/29/2018)

#### **1-13-9: MAYOR OR CHAIR RESPONSIBILITIES:**

- A. The Mayor is the Chair of the Council meetings. A Chair shall be designated for all other public bodies. The Mayor or Chair, as applicable, will lead the meeting/attention to process,

rules of conduct and facilitate closure, summarization of main discussion point, and request motions be formulated.

- B. The Mayor or Chair, as applicable, at his/her discretion, may recognize person(s) wishing to make comments or address the public body and request them to address the public body at the podium, stating their name and address for the official record. All comments should be directed to the public body and not to others in attendance. Person(s) wishing to speak should not request recognition while someone else is speaking. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

#### **1-13-10: MAYOR OR CHAIR PRO TEM RESPONSIBILITIES:**

- A. The Mayor or Chair Pro Tem will be established by resolution or motion by a majority vote of the public body. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).
- B. The Mayor or Chair Pro Tem will chair the meetings in the absence of the Mayor or Chair and will conduct in accordance with meeting procedures. (Ord. 11-003, 5-24-2011)

#### **1-13-11: MEMBER RESPONSIBILITIES:**

- A. It is the duty of the voting members of a public body to consider interest of the municipality in its entirety.
- B. To prepare for the meetings by reviewing the agenda, supporting materials and asking questions in advance.
- C. Communicate needs to staff and other members about personal learning style, physical or mental limitations, and other accommodations required as permitted under the Americans with disabilities act and respect the accommodation needs of other members.
- D. Respect the public process and decisions.
- E. The members of a public body may expel any public body members for disorderly conduct on a two-thirds ( $\frac{2}{3}$ ) vote of the members.
- F. Maintain confidential information and discussion that is shared in closed sessions per the Utah State Open Meeting Act. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

#### **1-13-12: QUORUM:**

- A. Defined: The number of members of the Town Council necessary to constitute a quorum is three (3) or more. (Ord. 18-003, 5-29-2018)
- B. If a position is vacant, a quorum is the majority of the remaining members of the public body.
- C. Abstention does not impact a quorum.

(Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018)



### **1-13-13: VOTING:**

- A. How A Vote is Taken: A roll-call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the town and in any other case at the request of any member by an “Aye” or a “Nay” vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken. Each member of the public body has one vote each time a vote is held. (Ord. 11-003, 5-25-2012, amd. Ord. 18-003, 5-29,2018)
- B. The requirement for a recorded vote must include the vote of each member and reason for abstention. (Ord. 11-003, 5-24-2011)
- C. Minimum Vote Required: The minimum number of “Aye” votes required to pass any ordinance, resolution or to take any action by the public body, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3). (Ord. 18-003, 5-29-2018)
  - a. Any ordinance, resolution or motion by the Town Council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the Town Council even though such majority vote is less than that required herein. (Ord. 18-003, 5-29-2018)
  - b. A majority of the members of the Town Council, regardless of number, may fill any vacancy in the Town Council (Ord. 18-003, 5-29-2018)
- D. Reconsideration: Any action taken by the public body shall not be reconsidered or rescinded at any special meeting unless the number of members of the public body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved. (Ord. 18-003, 5-29-2018)

### **1-13-14: ABSTENTION & RECUSING FROM VOTING:**

- A. A member may decide not to vote either in favor or against a motion.
- B. Abstention may occur if a member has been absent and/or feels insufficient information has been received on an issue. (Ord. 11-003, 5-24-2011)
- C. Abstention is not to be confused with voting against a matter.
- D. Members not abstaining carry the vote, as long as the motion receives the minimum required affirmative votes. (Ord. 11-003, 5-24-2011)
- E. If a public body member should choose to recuse themselves from an agenda item, they will need to remove themselves from their seat. (Ord. 11-003, 5-24-2011. amd Ord. 18-003, 5-29-2018))

### **1-13-15: CONFLICTS OF INTEREST / DISCLOSURE STATEMENTS:**

- A. All public body members will complete a written disclosure statement annually or when there is a change in the nature of the conflict and file it with the Town Clerk. All disclosure statements will adhere to the Utah Municipal Officers and Employees' Ethics Act UCA §10-3-1301.
- B. All disclosure statements are public information and may be inspected by the public during normal business hours.
- C. A conflict of interest must be made orally in an open meeting to the members of the public body and public before the discussion about the topic involved in the conflict of interest as per the [Municipal Officers and Employees Ethics Act](#). UCA §10-3-1301 (Ord. 11-003, 5-24-2011 amd. Ord. 18-003, 5-29-2018)

### **1-13-16: MOTIONS:**

- A. The Mayor or Chair may recommend language to the council for a motion.
- B. Motions should begin with "I move to".
- C. Before a motion can be discussed it must be seconded.
- D. Agenda items identified as discussion items only may not require a motion.
- E. Amending a motion requires recognition by the Mayor or Chair; the member must state the change clearly and specifically and requires a second. It is debatable at this point before a majority vote to pass.
- F. The motion must be made at the appropriate time in the order of business.
- G. Agenda items needing more attention/investigation and/or discussion may be referred to a committee, staff for further review. A motion should be made which identifies specifics of the committee or staff on when and how they are to report on the matter.
- H. A motion to recess the meeting for a break must be made and should state for how long or a time to reconvene the meeting. This motion requires a second and is not debatable.
- I. If a public body member requests to withdraw a motion, the Mayor or Chair will ask for any objections to the motion being withdrawn; if no objection, the motion is immediately withdrawn. If there is an objection, the request to withdraw becomes a motion, which must be seconded and is not debatable and requires a simple majority to pass. (Ord. 11-003, 5-24-2011)

# Chapter 14

## TRAILS COMMITTEE

### 1-14-1: TRAILS COMMITTEE ESTABLISHED

### 1-14-2: MEMBERSHIP

### 1-14-3: TERMS OF SERVICE, REMOVAL AND VACANCIES

### 1-14-4: OFFICERS AND THEIR DUTIES

### 1-14-5: PUPOSE AND DUTIES OF THE COMMITTEE

### 1-14-6: MEETINGS AND PROCEDURES

#### **1-14-1: TRAILS COMMITTEE ESTABLISHED**

The Trails Master Plan Committee created by ordinance 09-015 is hereby amended and renamed the "Trails Committee". (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

#### **1-14-2: MEMBERSHIP**

The Trails Master Plan Committee shall consist of six (6) members. Members shall consist of one (1) Town Council member, one (1) Planning Commission member, Cedar Breaks National Monument representative, Dixie national forest representative, Brian Head Resort representative and one town staff member. The town shall appoint a Secretary which shall not be a voting member of the committee. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

#### **1-14-3: TERMS OF SERVICE, REMOVAL AND VACANCIES**

- A. Members of the Trails Committee shall be appointed by the Town Manager with the advice and consent of the Town Council. They shall serve for a term of four years. The initial terms of the Council member representative, Town staff representative, and National Forest representative shall be set at two years. The initial term of the Planning Commission representative, National Monument representative and Resort Representative shall be four years. All initial terms shall begin retroactively on January 1, 2014. Thereafter, all appointees shall serve a four year term. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)
- B. Vacancies in the Committee occasioned by removals, resignations, or otherwise shall be filled for the unexpired term in the same manner as the original appointments. The Town Manager will serve as an Ex-officio member, and other ex-officio members may be added

as the committee deems necessary. They shall serve by the invitation of the secretary and shall have no vote. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

#### **1-14-4: OFFICERS AND THEIR DUTIES**

At its first meeting, and annually at the first meeting of a new year, the Committee shall elect a Chairman, Vice-Chairman and any additional officers as necessary. The Chairman shall preside at the meetings, appoint sub-committees with the concurrence of the Committee, and generally perform the duties of a presiding officer. The Chairman shall have the right to vote. The Vice-Chairman or a Board member designated by the Chairman shall preside when the Chairman is absent. The agenda for meetings shall be prepared by the secretary. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

#### **1-14-5: PURPOSE AND DUTIES OF THE COMMITTEE**

The purpose and duties of the committee are as follows:

- A. Prepare a trails master plan for the town with associated maps, sign design standards, and associated information relevant to a trails master plan (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)
- B. Recommend projects and ordinances necessary for the implementation of the Trails Master Plan, along with associated budget proposals. (Ord. 14-003, 5-13-2014)
- C. Make recommendations regarding the obtaining of easement or licenses for usage of trails identified in the Master Plan. (Ord. 14-003, 5-13-2014)
- D. Review and revise the Trails Master Plan as deemed necessary. (Ord. 14-003, 5-13-2014)
- E. Address other trails related issues and projects and make recommendations as assigned by the Town Council or Town Manager. (Ord. 14-003, 5-13-2014)

#### **1-14-6: MEETINGS AND PROCEDURES**

The Committee may adopt rules and regulations not inconsistent with the law applicable to public bodies for governing of its meeting. The committee shall abide by the Utah Open Public Meeting laws as outline in U.C.A. [52-4-2](#) and the Brian Head Public Body Meeting Policy and Procedures. Meetings may be called at the request of the Chair or Town Manager. A quorum for the transaction of business shall be a simple majority of the Committee Members. When vacancies occur, a simple majority of the remaining Committee members shall constitute a quorum. Minutes shall be kept at all meetings. Closed meetings may only be held for purposes authorized by U.C.A. [52-4-2-205](#), as amended. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

## Chapter 15

# BUSINESS TECHNICAL ADVISORY COMMITTEE

### 1-15-1: ESTABLISHMENT OF THE BUSINESS TECHNICAL ADVISORY COMMITTEE

### 1-15-2: TERM OF SERVICE, REMOVAL AND VACANCIES

### 1-15-3: OFFICERS AND THEIR DUTIES

### 1-15-4: PURPOSE AND DUTIES OF THE COMMITTEE

### 1-15-5: MEETINGS AND PROCEDURES

### **1-15-1: ESTABLISHMENT OF THE BUSINESS TECHNICAL ADVISORY COMMITTEE**

The Business Technical Advisory Committee (BTAC) is hereby established and shall consist of six members to include a representative of the following: Lodging, resort, restaurant, retail, service, and citizens.

The Town Manager shall serve as secretary which shall not be a voting member of the Committee. The members shall serve without any additional compensation from the Town for this position.

### **1-15-2: TERM OF SERVICE, REMOVAL AND VACANCIES**

Members of the Business Technical Advisory Committee shall be appointed by the Town Manager with the advice and consent of the Town Council. They shall serve for a term of four years. All initial terms shall begin retroactively on January 1, 2015. Thereafter, all appointees shall serve a four year term.

Vacancies in the Committee occasioned by removals, resignations, or otherwise shall be filled for the unexpired term in the same manner as the original appointments.

Other ex-officio members may be added as the committee deems necessary. They shall serve by the invitation of the Town Manager and shall have no vote.

### **1-15-3: OFFICERS AND THEIR DUTIES**

At its first meeting, and annually at the first meeting of a new year, the Committee shall elect a Chairman, Vice-Chairman and any additional officers as necessary. The Chairman shall preside at the meetings, appoint sub-committees with the concurrence of the Committee, and generally perform the duties of a presiding officer. The Chairman shall have the right to vote. The Vice-

Chairman or a Board member designated by the Chairman shall preside when the Chairman is absent. The agenda for meetings shall be prepared by the secretary.

#### **1-15-4: PURPOSE AND DUTIES OF THE COMMITTEE**

The purpose and duties of the Committee are as follows:

- A. Complete preparation of the Brian Head Economic Development Plan.
- B. Assist in studying economically related issues.
- C. Make recommendations to the Town Council.
- D. Review and revise the Economic Development Plan as necessary.
- E. Address economic development-related issues and projects and make recommendations as assigned by the Town Council or Town Manager.

#### **1-15-5: MEETINGS AND PROCEDURES**

The Committee may adopt rules and regulations not inconsistent with the law applicable to public bodies for governing of its meeting. The committee shall abide by the Utah Open Public Meeting laws as outline in U.C.A. and the Brian Head Public Body Meeting Policy and Procedures. Meetings may be called at the request of the Chair or Town Manager. A quorum for the transaction of business shall be a simple majority of the Committee Members. When vacancies occur, a simple majority of the remaining Committee members shall constitute a quorum. Minutes shall be kept at all meetings.

# **Title 1 – Administration**

## **Chapter 16**

### **Brian Head Town Tree Commission**

**1-16-1: PURPOSE**

**1-16-2: COMMISSION ESTABLISHED**

**1-16-3: TERM OF OFFICE**

**1-16-4: ORGANIZATION SECTION**

**1-16-5: GIFTS AND BEQUESTS SECTION**

**1-16-6: AUTHORITY OF COMMISSION**

**1-16-7: TOWN MANAGER**

**1-16-8: PLANTING REGULATIONS**

**1-16-9: REMOVAL OF TREES BY COMMISSION**

**1-16-10: FIRE MITIGATION**

**1-16-11: REVIEW BY TOWN COUNCIL**

**1-16-1: PURPOSE:**

Brian Head Town prides itself on its natural landscape and recognizes the importance of trees within the community. Besides adding to the beauty of the community trees stabilize surface drainage, help with soil erosions, and mitigate siltation of streams. Trees can also reduce air and sound pollution, regulate solar radiation, and help with wind control.

**1-16-2: COMMISSION ESTABLISHED:**

There is hereby created a Brian Head Town Tree Commission consisting of up to eight members. One designated Public Works employee, one Public Safety Officer or a Representative from the Public Safety Department, and one Town Council Member shall be members of the Brian Head Town Tree Commission. The remaining members shall be appointed by the Town Manager with the advice and consent of the Town Council and consultation with the Brian Head Town Tree Commission. (2010 Code, amd. Ord. 18-012, 10-8-2018).

**1-16-3: TERM OF OFFICE:**

The eight appointed members of the Brian Head Town Tree Commission shall serve for a term of four years and until their successors are appointed; provided that the members first appointed shall be appointed for such terms that the term of one member shall expire annually



thereafter. The term of office of each appointed member shall commence on the first day of January in the year in which such member is appointed. The term of office of the other members of the Brian Head Town Tree Commission shall correspond to their tenure as Public Works employee, Public Safety Officer, or Councilman respectively. The Town Manager, with the advice and consent of the Town Council, may remove any member of the Brian Head Town Tree Commission for cause and after a public hearing, if such hearing is requested. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. (2010 Code, amd. Ord. 18-012, 10-8-2018)

**1-16-4: ORGANIZATION:**

In January of each year, the Brian Head Town Tree Commission shall designate one member of the Brian Head Town Tree Commission as Chairman for the ensuing year. A member of the Commission may, at the pleasure of the Commission, serve as Chairman in successive years. Following the appointment of the Chairman by the Commission, the Brian Head Town Tree Commission may select from their own members such other officers and adopt such rules and regulations for their own proceedings as they may deem expedient. Meetings of the Commission shall comply with the Utah open meeting laws and shall be held at the call of the Chairman along with meetings held in April, June, and August of each year and at such other times as the Commission may determine. The Commission shall keep minutes of its proceedings and its official actions which shall be immediately filed in the office of the Town Clerk and shall be a public record. (2010 Code, amd. Ord. 18-012, 10-8-2018)

**1-16-5: GIFTS AND BEQUESTS:**

The Brian Head Town Tree Commission shall, on behalf of the Town and with the consent of the Town Council, have authority to receive gifts or bequests from any person or organization for the building, improvement or maintenance of a civic arboretum, for tree planting, or tree planting maintenance on any street or public property. All such gifts shall be received by the Town Treasurer and paid over to a special fund for such purposes. Said funds shall not be used for any other purpose.

**1-16-6: AUTHORITY OF COMMISSION:**

The Town, through its Brian Head Tree Commission, shall exercise full control over and regulate the planting, maintenance, and care of shade or ornamental trees and shrubbery now growing or which may hereafter be planted on any street (right-of-way) or on any public property within the Town. It shall be the duty of the Brian Head Town Tree Commission to make recommendations to the Town Council relating to the planting, pruning, spraying, removing, and irrigating of trees and shrubs on public streets and places; to make recommendations to the Town Council relating to the regulation and control of the grounds surrounding trees, shrubs, and plants on public streets and places insofar as the same may be necessary for

the proper growth, care, and protection of the same; to recommend to the Town Council the removal of any trees or parts thereof growing on public or private land as outlined in this Ordinance which have become a nuisance or may be dangerous to the public safety; and to recommend to the Town Council the marking, maintenance and preservation of historic or notable trees.

#### **1-16-7: TOWN MANAGER:**

The Town Manager will administer the provisions of this Tree Commission Ordinance and such policies, recommendations, rules and regulations of the Brian Head Tree Commission as approved by the Town Council.

- A. Until otherwise provided, the Town Manager shall have the following duties and authority (or may delegate said duties as deemed necessary):
1. He shall have supervision of all trees and plants planted or growing in public streets or places within the Town.
  2. He shall supervise planting, trimming, spraying, preserving and removing trees and other plants in public streets which front on property owned by the Town and in Town parks to promote safety and preserve the beauty of such public places.
  3. He shall care for all trees in the Town which have been designated by the Town Council or Brian Head Town Tree Commission as historic or notable trees.
- B. All owners and occupants of each parcel of real property within the Town shall be responsible for the care of trees located in public streets which front on that parcel of real property. All pruning of such trees must be done pursuant to proper maintenance and in no event will pruning be allowed which will be detrimental to the healthy growth of said trees.

#### **1-16-8: PLANTING REGULATIONS:**

The Brian Head Town Tree Commission shall coordinate with overhead utility companies and prepare a list designating the species of trees and shrubs which may be planted under overhead Town utility lines and on public streets within the Town; and, upon approval of such list by the Town Council, no trees or shrubs, other than the kind designated, shall be planted under any overhead Town utility lines and on any public street or public place without the consent of the Brian Head Town Tree Commission. The Brian Head Town Tree Commission shall also prepare and submit to the Town Council rules and regulations establishing standards for the planting of trees and shrubs under overhead utility lines and upon the public streets and on public property, and, after approval of said rules and regulations by the Town Council, no trees or shrubs shall be planted other than in accordance with the standards so established, unless the written consent of the Brian Head Town Tree Commission is obtained. The utility companies will construct, own, operate and maintain existing overhead utility lines only along public streets, roads, and other rights-of-ways which the Town has the legal right

to occupy, and cross other public and private property across which the utility company has a utility easement. In no event shall any tree be planted over the underground utility easements.

**1-16-9: REMOVAL OF TREES BY COMMISSION:**

The Town, through its Brian Head Town Tree Commission, shall condemn and remove, or order the removal of any tree, tree stump, shrub, or plant upon any of the public streets or on public property within this Town where the same is dead, diseased or for any reason whatsoever is deemed undesirable by the Brian Head Town Tree Commission. The Town, through its Brian Head Town Tree Commission, shall have authority to condemn and remove, or order to be removed any tree, tree limbs, tree stump, shrub, or plant upon private property which encroaches and inhibits over a public way or, when the Brian Head Town Tree Commission shall find such action necessary to the public safety or to prevent the spread of disease or insects to public trees and places. However, the affected private property owner shall have after reasonable notice and after thirty (30) days thereof an opportunity to remedy any condition deemed undesirable by the Brian Head Tree Commission. The Brian Head Town Tree Commission shall have authority, with reasonable notice to the abutting property owner, to remove or order the removal of any tree, shrub, or plant which has been planted upon any public street or on any public property in violation of this Ordinance, or any other Ordinance pertaining to the trees in Brian Head. Utility companies that have overhead utility lines within the Town's limits have the authority to maintain and trim trees located in their utility lines.

**1-16-10: FIRE MITIGATION:**

Since Brian Head Town is a mountain resort and most trees are naturally grown in the Town, the Town will conduct a fire mitigation process each year, as needed. Said fire mitigation duties will be conducted by the Town's volunteer fire department, under the direction of the Public Safety Director. The Public Safety Director shall work closely with all entities (i.e. Utah Department of Transportation, Bureau of Land Management, and Forest Service) involved with tree removals, etc. as it pertains to them. All funds for the fire mitigation projects will be budgeted under the General Fund – Fire Department. Grants may also be obtained to help with fire mitigation projects.

**1-16-11: REVIEW BY TOWN COUNCIL:**

The Town Council shall have the right to review the acts and decisions of the Brian Head Town Tree Commission and the Town Manager. Any person may appeal any ruling or order from the Brian Head Town Tree Commission or the Town Manager to the Town Council and the Town Council shall hear the matter and make a final decision.